

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Norfolk Division

RICKEY LEE BOOKER,

Plaintiff,

v.

ACTION NO. 2:13cv516

CAROLYN W. COLVIN,
ACTING COMMISSIONER,
SOCIAL SECURITY ADMINISTRATION,

Defendant.

REMAND ORDER


Plaintiff brought this action under 42 U.S.C. §§ 405(g) and 1383(c)(3), seeking judicial review of the final decision of the Acting Commissioner of the Social Security Administration ("Acting Commissioner"), which denied Plaintiff's claim for disability insurance benefits ("DIB") under Title II of the Social Security Act, as well as Plaintiff's claim for Supplemental Security Income ("SSI"), under Title XVI of the Social Security Act.

This matter was referred to a United States Magistrate Judge, pursuant to the provisions of 28 U.S.C. §§ 636(b)(1)(B) and (C), and Rule 72(b) of the Federal Rules of Civil Procedure for report and recommendation. Report of the magistrate judge was filed on September 5, 2014, recommending that Plaintiff's Motion for Summary Judgment be granted to the extent it seeks remand of the Acting Commissioner's decision to permit analysis of Listing 12.05. By

copy of the report, each party was advised of the right to file written objections to the findings and recommendations made by the magistrate judge. The court has received no objections to the magistrate judge's report and recommendation, and the time for filing same has expired.

The court does hereby adopt and approve the findings and recommendations set forth in the report of the United States Magistrate Judge filed September 5, 2014. Accordingly, Plaintiff's Motion for Summary Judgment is **GRANTED** to the extent that it seeks remand of the Acting Commissioner's decision to permit analysis of the testing data and other evidence of Booker's intellectual impairment under Listing 12.05; Defendant's Motion for Summary Judgment is **DENIED AS MOOT** at this juncture; and the final decision of the Acting Commissioner is **VACATED** and the matter is hereby **REMANDED** to the Acting Commissioner for further proceedings consistent with the Magistrate's Report and Recommendation filed September 5, 2014, and this Remand Order.

The Clerk shall forward a copy of this Remand Order to counsel for Plaintiff and Defendant.

/s/
Rebecca Beach Smith
Chief
United States District Judge 
REBECCA BEACH SMITH
CHIEF UNITED STATES DISTRICT JUDGE

September 26, 2014